

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MELISSA RHODES and WILLIAM
RHODES,

Plaintiffs,

v.

MARIX SERVICING, LLC, et al.,

Defendants.

Civil Action No. 12-1636 (MAS) (DEA)

**MEMORANDUM ORDER
& ORDER TO SHOW CAUSE**

This matter comes before the Court upon Plaintiffs Melissa Rhodes and William Rhodes's (collectively, "Plaintiffs") Motion to Reopen Case against Defendants Marix Servicing, LLC ("Marix"); Zucker, Goldberg & Ackerman, LLC ("ZGA"); EMC Mortgage Corporation ("EMC Mortgage"); and Residential Credit Solutions, LLC ("Residential Credit Solutions") (collectively, "Defendants"). (ECF No. 213.)

On February 12, 2019, Marix notified the Court of a bankruptcy filing in the United States Bankruptcy Court for the Southern District of New York that affected Marix. (ECF No. 205.) On February 13, 2019, the Court ordered Plaintiffs and ZGA to e-file correspondence with the Court regarding the bankruptcy's impact on the present action. (ECF No. 206.) On February 21, 2019, ZGA and Plaintiffs e-filed correspondence with the Court. (ECF Nos. 209, 211.)

On February 22, 2019, the Court administratively terminated this matter pending a resolution of the bankruptcy proceedings. (ECF No. 212.) The Court further ordered any party seeking to reopen the matter prior to the resolution of the bankruptcy proceeding to submit a "formal motion that complies with both the Federal Rules of Civil Procedure and Local Civil Rules, and [to] cite relevant Third Circuit authority in support of the requested relief." (*Id.*)

On July 11, 2019, Plaintiffs filed the instant Motion. On July 22, 2019, ZGA submitted correspondence noting that, although it “disagree[d] with many of the characterizations provided by Plaintiffs with respect to [the] underlying facts[,]” it did not oppose the merits of Plaintiffs’ Motion. (ECF No. 214.) On July 24, 2019, EMC Mortgage and Residential Credit Solutions e-filed correspondence stating that they “disagree[d] with many of the statements made by Plaintiffs in this Motion” but did not object to the matter being reopened. (ECF No. 215.)

On December 6, 2019, Marix e-filed correspondence informing the Court that the underlying bankruptcy matter had been resolved and that the confirmed Chapter 11 plan included a “permanent injunction [] that specifically prohibits parties from prosecuting against [Marix] any claim for monetary recovery (including attorney’s fees) . . . arising prior to September 30, 2019.” (Correspondence, ECF No. 217.) Marix averred that “Plaintiffs must immediately dismiss . . . Counts One, Two, Three, Five, Six, and Seven of the Amended Complaint” against Marix (*Id.* at 2.) Marix further argued that because it was “no longer the servicer of the loan at issue in this action, [it] is unable to grant the requested relief in Count Four of the [Amended] Complaint.” (*Id.*) Marix requested it be terminated from this matter. (*Id.*)

The Court has carefully considered the parties’ submissions and decides the matter without oral argument pursuant to Local Civil Rule 78.1. Based on the Court’s inherent power to control the matters on its docket and for good cause appearing,

IT IS on this 28th day of February 2020, **ORDERED** that:

1. Plaintiffs’ Motion to Reopen Case (ECF No. 213) is **GRANTED**;
2. The Clerk shall reopen this matter;

3. Plaintiffs' Motion for Attorney's Fees Pursuant to Offer of Judgment of ZGA (ECF No. 184) and Plaintiffs' Motion to Enforce Settlement against EMC Mortgage and Residential Credit Solutions (ECF No. 195) are **REINSTATED**;¹
4. Plaintiffs shall show cause, not to exceed five pages, as to why the Court should not grant Marix's request to be removed from the case by **March 13, 2020**;²
5. Upon receipt of Plaintiffs' brief, the Court shall set a briefing schedule for the reinstated motions.

s/ Michael A. Shipp
MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE

¹ The date of this Order shall serve as the filing date for the reinstated motions.

² Given Marix's request to be terminated from the present action, the Court declines to reinstate Marix's Cross Motion to Enforce Settlement against Plaintiffs (ECF No. 196), pending resolution of the Order to Show Cause.